

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1663

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-161 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 161. (a) "Health care facility" includes:

- (1) hospitals licensed under IC 16-21-2, private mental health institutions licensed under IC 12-25, and tuberculosis hospitals established under IC 16-11-1 (**before its repeal**);
- (2) health facilities licensed under IC 16-28; and
- (3) rehabilitation facilities and kidney disease treatment centers.

(b) **"Health care facility", for purposes of IC 16-28-13, has the meaning set forth in IC 16-28-13-0.5.**

SECTION 2. IC 16-28-9-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 6. The state department may impose a fine not to exceed five thousand dollars (\$5,000) for a violation of a provision of this chapter.**

SECTION 3. IC 16-28-13-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 0.5. As used in this chapter, "health care facility" includes the following:**

- (1) **An ambulatory outpatient surgical center licensed under IC 16-21-2.**
- (2) **A health facility licensed under IC 16-28-2 or IC 16-28-3.**

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(3) A home health agency licensed under IC 16-27-1.

(4) A hospice program certified under IC 16-25-1.

(5) A hospital licensed under IC 16-21-2.

SECTION 4. IC 16-28-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this chapter, "nurse aide" means an individual who provides nursing or nursing related services to residents in the following:

(1) A health facility.

(2) A hospital based health facility.

(3) An ambulatory outpatient surgical center licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the center after July 1, 1999.

(4) A home health agency licensed under IC 16-27-1. Under this subdivision, the term applies to an individual who was employed by the agency after July 1, 1999.

(5) A hospice program certified under IC 16-25-1. Under this subdivision, the term applies to an individual who was employed by the program after July 1, 1999.

(6) A hospital licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the hospital after July 1, 1999.

(b) The term does not include the following:

(1) A licensed health professional (as defined in IC 25-1-9-3).

(2) A registered dietician.

(3) An individual who volunteers to provide nursing or nursing related services without pay.

SECTION 5. IC 16-28-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) As used in this chapter, "other unlicensed employee" means an employee of a health facility or a hospital based health facility who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

SECTION 6. IC 16-28-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A health ~~care~~ facility ~~a hospital based health facility~~, or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health ~~care~~ facility ~~or hospital based health facility~~ may not knowingly employ a person as a nurse aide or other unlicensed employee if **one (1) or more of the following conditions exist:**



(1) The person has been convicted of any of the following:

- ~~(1)~~ (A) A sex crime (IC 35-42-4).
- ~~(2)~~ (B) Exploitation of an endangered adult (IC 35-46-1-12).
- ~~(3)~~ (C) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- ~~(4)~~ (D) Theft (IC 35-43-4), if the person's conviction for theft occurred less than five (5) years before the individual's employment application date, **except as provided in IC 16-27-2-5(a)(5).**
- ~~(5)~~ (E) Murder (IC 35-42-1-1).
- ~~(6)~~ (F) Voluntary manslaughter (IC 35-42-1-3).
- ~~(7)~~ (G) Involuntary manslaughter (IC 35-42-1-4) within the previous five (5) years.
- ~~(8)~~ (H) Felony battery within the previous five (5) years.
- ~~(9)~~ (I) A felony offense relating to controlled substances within the previous five (5) years.

(2) The person:

- (A) **has abused, neglected, or mistreated a patient or misappropriated a patient's property; and**
- (B) **had a finding entered into the state nurse aide registry.**

(b) A person who knowingly or intentionally applies for a job as a nurse aide or other unlicensed employee at:

- (1) a health **care** facility; **or**
- (2) ~~a hospital based health facility; or~~
- ~~(3) an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; or~~
- ~~hospital based health facility;~~

after a conviction of one (1) or more of the offenses listed in subsection ~~(a)~~ (a)(1) commits a Class A infraction.

SECTION 7. IC 16-28-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Except as provided in subsection (b), a person who:

- (1) operates **or administers** a health **care** facility; **or**
- (2) ~~administers a hospital based health facility; or~~
- ~~(3) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; or~~ ~~hospital based health facility;~~

shall apply within three (3) business days from the date a person is employed as a nurse aide or other unlicensed employee for a copy of the person's **state nurse aide registry report from the state department and a** limited criminal history from the Indiana central repository for criminal history information under IC 5-2-5 or another

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source allowed by law.

(b) A

~~(1) health care facility or~~

~~(2) hospital based health facility;~~

is not required to apply for the **state nurse aide registry report and** limited criminal history required by subsection (a) if the health **care** facility ~~or hospital based health facility~~ contracts to use the services of a nurse aide or other unlicensed employee who is employed by an entity in the business of contracting to provide nurse aides or other unlicensed employees to health **care** facilities. ~~and hospital based health facilities.~~

SECTION 8. IC 16-28-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. A person who:

(1) operates **or administers** a health **care** facility; **or**

(2) **administers** a ~~hospital based health facility;~~ **or**

~~(3) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; or hospital based health facility;~~

may not employ a person as a nurse aide or other unlicensed employee after receipt of the person's **state nurse aide registry report if that person's report indicates that the person committed an offense under section (3)(a)(2) of this chapter and has been placed on the state nurse aide registry, or after receipt of the** limited criminal history if that person's limited criminal history indicates that the person has been convicted of any of the offenses described in ~~section 3(a)~~ **section 3(a)(1)** of this chapter.

SECTION 9. IC 16-28-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) A person who:

(1) operates **or administers** a health **care** facility; **or**

(2) **administers** a ~~hospital based health facility;~~ **or**

~~(3) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility; or hospital based health facility;~~

is responsible for the payment of fees under IC 5-2-5-7 and other fees required to process a **state nurse aide registry report and a** limited criminal history under section 4 of this chapter.

(b) A health **care** facility ~~a hospital based health facility;~~ or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health **care** facility ~~or hospital based health facility~~ may require a person who applies to the health **care** facility ~~hospital based health facility;~~ or entity for employment as a nurse aide or other unlicensed employee:

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(1) to pay the cost of fees described in subsection (a) to the health **care** facility ~~hospital based health facility~~; or entity at the time the person submits an application for employment; or

(2) to reimburse the health **care** facility ~~hospital based health facility~~; or entity for the cost of fees described in subsection (a).

SECTION 10. IC 16-28-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The application of this chapter to a health **care** facility ~~a hospital based health facility~~; or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health **care** facility ~~or hospital based health facility~~ is limited to an individual:

(1) who is employed by:

(A) a health **care** facility; **or**

(B) ~~a hospital based health facility~~;

~~(C) a hospital licensed under IC 16-21; or~~

~~(D) an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health **care** facility; or hospital based health facility; and~~

(2) whose employment or responsibilities are limited to activities primarily performed within a health **care** facility. ~~or hospital based health facility.~~

SECTION 11. IC 16-28-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. A person:

(1) who:

(A) operates **or administers** a health **care** facility; **or**

(B) ~~administers a hospital based health facility; or~~

~~(C) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health **care** facility; or hospital based health facility; and~~

(2) who knowingly or intentionally violates section 4 or 5 of this chapter;

commits a Class A infraction.

SECTION 12. IC 16-28-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Each:

(1) health **care** facility; **and**

(2) ~~hospital based health facility; and~~

~~(3) entity in the business of contracting to provide nurse aides or other unlicensed employees for a health **care** facility; or hospital based health facility;~~

shall maintain a personnel record for each nurse aide and other unlicensed employee employed by the health **care** facility ~~hospital based health facility~~; or entity that includes the nurse aide's or other

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unlicensed employee's **state nurse aide registry report and** limited criminal history required by section 4 of this chapter.

(b) The personnel records of each

(1) health **care** facility ~~and~~

(2) ~~hospital based health facility~~

shall be available for inspection by the state department to assure compliance with this chapter.

(c) An entity in the business of contracting to provide nurse aides or other unlicensed employees to health **care** facilities ~~and hospital based health facilities~~ shall provide a copy of the **state nurse aide registry report and** limited criminal history obtained under section 4 of this chapter to each health **care** facility ~~and hospital based health facility~~ to which the entity provides a nurse aide or other unlicensed employee. If the entity fails to provide a copy of the **state nurse aide registry report and** limited criminal history to a health **care** facility, ~~or hospital based health facility~~, the health **care** facility ~~or hospital based health facility~~ is not in violation of this chapter.

SECTION 13. IC 16-28-13-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. If a health care facility has knowledge of a conviction of an employee of the health care facility that would indicate unfitness for service as a nurse aide, other unlicensed employee, or other health care professional (as defined by IC 16-27-2-1), the health care facility shall report the information to the state nurse aide registry or the appropriate licensing authority.**

SECTION 14. IC 16-28-13-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 13. The state department may adopt rules under IC 4-22-2 to implement this chapter.**

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